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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,135	12/20/2001	Jesse Pedigo	H0002514 (4960)	5119

34284 7590 08/18/2003

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EXAMINER

STONER, KILEY SHAWN

ART UNIT PAPER NUMBER

1725

DATE MAILED: 08/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/026,135

Applicant(s)

PEDIGO ET AL.

Examiner

Kiley Stoner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4-7. 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Information Disclosure Statement*

The information disclosure statement filed 4-1-02 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the issue date is missing from all of the foreign references of the IDS of paper no. 4. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

The information disclosure statement filed 6-17-02 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the issue date is missing from WO 00/13474 of the IDS of paper no. 7. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

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In addition, the IDS received on 4-8-02 is a duplicate of the IDS received 4-1-02 entered as paper no. 4. Thus, the IDS received on 4-8-02 has not been considered. The applicant has duplicate references on multiple IDS. The duplicate references have not been considered.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Griffin (5,775,389). Griffin teaches filling system comprising a pressurized source of fill material (column 2, lines 1-13 and column 5, lines 53-65) and a pressure fill head (column 5, lines 6-12) wherein the fill head also comprises a heating element positioned so as to transfer heat to fill material passing through the fill head (column 6, lines 40-47). It is inherent that the heater of the filling head would heat the filling material through conduction. Thus, the heater would also conductively transfer heat to the walls of a flow path within the fill head, the flow path being adapted to permit flow of fill material through the fill head; and would ultimately transfer heat (directly) from a heated fluid flowing through the heating element to any fill material passing through the fill head.

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In addition, Griffin teaches the fill head is coupled to the source of pressurized fill material by a fill material inlet, and the pressure head further comprises an elongated fill material outlet which is substantially larger than the fill material inlet, and the heating element is elongated and aligned with the fill material outlet (Figures 5-19; column 2, lines 1-13 and column 5, lines 6-12 and 53-65; and column 6, lines 40-47).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin (5,775,389) as applied to claim 1 above, and further in view of Deur et al. (5,386,224). Griffin teaches all of the limitations of the claims except that the fill head also comprise one or more thermal probes that provide a visual indication of the temperature of the fill material exiting the fill head; the fill head also comprise one or more thermal probes that provide a visual indication of the temperature of the fill head; and the heating element comprises a device for converting electricity to heat.

Deur et al. teaches the fill head also comprise one or more thermal probes that provide a visual indication of the temperature of the fill material exiting the fill head (column 4, lines 3-14; column 6, line 64-column 7, line 30; column 7, lines 57-68; column 9, lines 1-18); the fill head also comprise one or more thermal probes that

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provide a visual indication of the temperature of the fill head (column 4, lines 3-14; column 6, line 64-column 7, line 30; column 7, lines 57-68; column 9, lines 1-18); and the heating element comprises a device for converting electricity to heat (column 5, lines 56-63). The CPU of Deur et al. uses the temperature from the thermistor to determine when the heater should be turned on and off. A CPU comprises a monitor, so the temperature would be displayed on a monitor.

At the time of the invention it would have been obvious to combine the thermistor/temperature control of Deur et al. with the filling head of Griffin to order to insure that the material is being dispensed at the proper temperature.

### ***Conclusion***

The prior art of record that is cited as of interest is presented on the form-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiley Stoner whose telephone number is (703) 305-0723. The examiner can normally be reached on Monday-Thursday (7:30 a.m. to 6:00 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on Monday-Friday. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Kiley Stoner A.U. 1725

*Kiley Stoner* 8-5-03